

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE: § § CASE NO. 18-30849  
BENDCO, INC. § § Chapter 11  
Debtor § §

**MOTION FOR ENTRY OF RULE 4001 STIPULATION AND AGREED ORDER FOR  
ADEQUATE PROTECTION BETWEEN DEBTOR AND TCF EQUIPMENT  
FINANCE, A DIVISION OF TCF NATIONAL BANK**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 14 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

**COMES NOW,** TCF Equipment Finance, a Division of TCF National Bank, ("TCF")

files this Motion for Entry of Rule 4001 Stipulation and Agreed Order for Adequate Protection between Debtor and TCF and in support thereof respectfully shows the Court the following:

1. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157 and 11 U.S.C. Section 362(d), and is brought by motion pursuant to Bankruptcy Rule 4001(d).

2. The Debtor filed a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code on February 28, 2018 and has been continually operating its business.

3. Prior to the commencement of this case, on or about May 16, 2013, Debtor entered into a written Master Lease Agreement with Balboa Capital Corporation (the “Contract”) to finance the purchase of a Roundo section bending machine Model R-5S, s/n 08889 with standard equipment and digital readouts (the “Equipment”). A UCC-11 Financing Statement was filed on May 22, 2013. The Contract and UCC were assigned to TCF on or about May 30, 2013. The Contract required Debtor to make quarterly payments and to maintain insurance on the Equipment among other things.

4. Debtor was in arrears on its payments as of the date of filing of this case. The Contract had been accelerated and matured prior to the filing. No post-petition payments have been made to TCF. TCF is fully secured under Section 506 of the Bankruptcy Code and is owed a total of \$29,498.59. Debtor is in possession of and continues to use the Equipment in its business. Debtor asserts that the Equipment is necessary for its continued business operations and an effective reorganization.

5. TCF and Debtor have entered into a Stipulation and Agreed Order for Adequate Protection which sets forth the terms of the parties’ agreement for Debtor’s continued use of the Equipment and adequate protection of TCF’s interest, a copy of which is attached hereto as Exhibit “A”. Specifically, (1) Debtor shall make monthly payments to TCF; (2) Debtor shall maintain insurance on and keep the Equipment in good condition; and (3) Debtor shall pay the remainder of TCF’s claim in full under any proposed plan. A copy of the Stipulation and Agreed Order is attached hereto as Exhibit “A”. The parties request the Court approve the attached Stipulation and Agreed Order.

WHEREFORE PREMISES CONSIDERED, TCF respectfully requests that the Court enter the Stipulation and Agreed Order attached as Exhibit "A" hereto and grant the parties such other and further relief, both general and special to which it may be justly entitled.

Respectfully submitted,

LAW OFFICES OF T.H. KELLEY, P.C.

By: /s/ Teri H. Kelley

Teri H. Kelley  
SBN 10176900  
6750 West Loop S., Ste 920  
Bellaire, TX 77401  
Phone: (832) 485-3515  
Fax: (832) 485-3517  
[tk@thkelleylaw.com](mailto:tk@thkelleylaw.com)

**ATTORNEY FOR TCF EQUIPMENT  
FINANCE, A DIVISION OF TCF  
NATIONAL BANK**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 4, 2018, a true and correct copy of the above and foregoing Motion for Entry of Rule 4001 Stipulation and Agreed Order for Adequate Protection was served via ECF, if available or otherwise by first class U.S. mail postage pre-paid or to the parties listed below and on the attached service list.

/s/ Teri H. Kelley  
Teri H. Kelley

**Debtor (by regular first class mail)**

Bendco, Inc.  
801 Houston Avenue  
Pasadena, TX 77502

**Debtor's Attorney- (Via ECF at [rlfuqua@fuqualegal.com](mailto:rlfuqua@fuqualegal.com))**

Richard L. Fuqua  
5005 Riverway, Ste 250  
Houston, TX 77056

**Trustee (Via ECF at [Hector.Duran.Jr@usdoj.gov](mailto:Hector.Duran.Jr@usdoj.gov))**

Hector Duran  
U S Trustee  
515 Rusk St, Ste 3516  
Houston, TX 77002

**Parties Requesting Notice- Via ECF**

Harris County  
Tara L. Grundemeier (Via ECF at [houston\\_bankruptcy@publicans.com](mailto:houston_bankruptcy@publicans.com))  
Linebarger Goggan Blair & Sampson, LLP  
P.O. Box 3064  
Houston, Texas 77253-3064

Texas Comptroller of Public Accounts  
Jay W. Hurst (Via ECF at [bk-jhurst@oag.texas.gov](mailto:bk-jhurst@oag.texas.gov))  
Assistant Attorney General  
c/o Sherri K. Simpson, Paralegal (Via ECF at [sherri.simpson@oag.texas.gov](mailto:sherri.simpson@oag.texas.gov))  
Attorney General's Office  
Bankruptcy & Collections Division  
P.O. Box 12548  
Austin, TX 78711-2548

BB&T Commercial Equipment Capital Corp  
Alan B. Padfield, Esq. (Via ECF at [abp@padfieldstout.com](mailto:abp@padfieldstout.com))  
Padfield & Stout, LLP  
421 W. Third Street, Suite 910  
Fort Worth, TX 76102

Dexter D. Joyner, Esq.(via regular mail)  
4701 Preston Ave.  
Pasadena, TX 77505

Internal Revenue Service  
Richard A. Kincheloe (Via ECF at [richard.kincheloe@usdoj.gov](mailto:richard.kincheloe@usdoj.gov))  
United States Attorney's Office  
1000 Louisiana St., Suite 2300  
Houston, TX 77002

Mynde S. Eisen, Esq. (Via ECF at [mynde@eisenlawoffice.com](mailto:mynde@eisenlawoffice.com))  
6546 Greatwood Parkway, Suite C  
Sugar Land, TX 77479

Palladian Publications, Ltd  
William T. Peckham, Esq. (Via ECF at [wpeckham@peckhamlawaustin.com](mailto:wpeckham@peckhamlawaustin.com))  
1104 Nueces St., Suite 104  
Austin, TX 78701-2106

AmTrust North America, Inc  
Alan C. Hochheiser, Esq. (Via ECF at [ahochheiser@mauricewutscher.com](mailto:ahochheiser@mauricewutscher.com))  
Maurice Wutscher, LLP  
2000 Auburn Drive, Suite 200  
One Chagrin Highlands  
Beachwood, OH 44122

San Jacinto Community College District  
Daniel J. Snooks, Esq. (Via ECF at [djsnooks@swbell.net](mailto:djsnooks@swbell.net))  
11550 Fuqua, Suite 370  
Houston, TX 77034

U.S. Bank National Assoc.  
Jeremy M. Jones (Via ECF at [jones@llppc-law.com](mailto:jones@llppc-law.com))  
Lam, Lyn & Philip, PC  
6213 Skyline Drive, Ste 2100  
Houston, TX 77057

### **Interested Creditors**

Bank of America  
P.O. Box 660576  
Dallas, TX 75266-0576